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March 5, 1999

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
445 - 12th Street, S.W.
12th Street Lobby, TW-A325
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: WT Docket No. 96-18 Ex Parte Presentation

Dear Ms. Roman Salas:

In accordance with Section 1.1206 of the Commission's Rules, 47 C.F.R. § 1.1206, this is to notify the Commission that on March 4, 1999, Robert L. Hoggarth, Vice President of the Personal Communications Industry Association, and I met with Kathleen Ham and Diane Conley concerning WT Docket No. 96-18.

The purpose of this meeting was to discuss PCIA's recommendations for changes to the Commission's market area licensing rules for paging, as reflected in PCIA's pending petition for reconsideration in this docket. The subjects discussed are fully set forth in the enclosed materials, which were left with the participants from the Commission's staff.

Two copies of this letter and the associated presentation materials are being filed with the secretary's office, as required by Section 1.1206.

Should you have any questions regarding this matter, please call me.

Respectfully submitted,

Katherine M. Harris
Katherine M. Harris

KMH/cet

Enclosures

cc: Kathleen Ham
Diane Conley

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PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION
THE TRANSITION TO MARKET AREA LICENSING FOR PAGING
WT DOCKET NO. 96-18

1. The FCC must move to market area licensing for paging systems to reduce administrative burdens for both licensees and the Commission.
2. The transition from single site to market area licenses must be made fairly, efficiently, and effectively.
3. The FCC determined, despite initial industry objections, that auctions offer the best method to award market area licenses.
4. Auction rules must recognize the rights of incumbent licensees who have built out and serve large customer bases.
5. Auction rules must also provide opportunities for new entrants to build and operate viable competitive networks.

PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION

THE COMMISSION MUST MAKE SEVERAL CHANGES TO ITS RULES FOR AUCTIONING MARKET AREA LICENSES FOR PAGING FREQUENCIES¹

It is essential that the Commission make four significant changes to its market area paging auction rules to ensure a fair and efficient process that: 1) safeguards public reliance on existing, available services; 2) creates practical opportunities for new competitors; and 3) minimizes the filing of unscrupulous applications that do not reflect a serious intent to provide service to the public.²

1. The Commission should eliminate use of the "all" box on the FCC Form 175 application and instead require applicants to specify the particular frequency/market combinations for which they are seeking a license.
 - a) The Commission has a public interest obligation under Section 309(j)(6)(E) of the Telecommunications Act to avoid "mutual exclusivity" in application and licensing proceedings.
 - b) The easy ability simply to check the "all" box on FCC Form 175 would create mutually exclusive situations where they would not otherwise exist.
 - c) The availability of the "all" box permits entities to sign up to bid without giving serious thought to the systems they are seeking authorization to construct and operate.
2. The Commission should not permit a "substantial service" alternative for market area licensees to meet applicable coverage requirements.
 - a) The "substantial service" alternative provides the incentive and opportunity for both speculators and fraudulent application mills to take advantage of the Commission's auction process.

¹ These suggestions reflect positions articulated by PCIA in its Petition for Reconsideration of the *Second Report & Order* and in *ex parte* communications during the fall of 1998.

² PCIA continues to believe that the public interest will best be served by adoption of its proposal to permit grant of a market area license to incumbents serving 70 percent or more of the subject license area without having to face any competing applications. That proposal has been extensively outlined in previous *ex parte* submissions in this proceeding.

THE COMMISSION MUST MAKE SEVERAL CHANGES TO ITS RULES FOR
AUCTIONING MARKET AREA LICENSES FOR PAGING FREQUENCIES
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- b) Service to the public may be delayed, or the holder of the market area license may simply use its license to block expansion by incumbent operators in the market as well as in adjacent service areas.
 - c) Market area licensees should be required to comply with the applicable buildout requirement already set forth in the rules – provide coverage to one-third of the population within three years and to two-thirds of the population with five years of license grant.
- 3. Applicants should be required to post an upfront payment for every license on which they seek to bid.
 - a) Requiring a per license upfront payment will help to ensure that auction participants are sincere in their participation and their intent to provide service to the public.
 - b) This approach also would help to deter the activities of fraudulent application mills, by requiring a greater financial investment.
 - c) Adopting a per license upfront payment policy is appropriate in the circumstances of the paging service in order to provide protection to existing subscribers relying on established paging services.
- 4. The Commission should provide complete bidding information, specifically including the identity of competing bidders, during the course of the auctions.
 - a) The Commission's decision to withhold significant identification information is inconsistent with its usual approach to maximizing information flow related to auctions.
 - b) The existing policy likely will place incumbents at a disadvantage vis-a-vis their competitors.